

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:15-MJ-1150-JG

UNITED STATES OF AMERICA)
)
)
v.) **ORDER OF DETENTION PENDING**
)
JOSEPH BROOKS HUDSON,) **TRIAL**
)
Defendant.)

This case came before the court today for hearing on the government's motion, pursuant to 18 U.S.C. § 3142(f), to detain defendant pending trial.¹ At the hearing, defendant presented no evidence. At the court's request, the government, with defendant's consent, provided a brief proffer of the evidence supporting its case. For the reasons stated below, the government's motion is GRANTED.

Background

Defendant was charged by criminal complaint on 2 February 2015 with possession of a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924(c) and robbery affecting interstate commerce in violation of 18 U.S.C. § 1951. The alleged offense date in each count is 20 March 2014. The proffer at the hearing showed that the charges arise from the robbery of a convenience store in which the robber, who was wearing a face mask with cut-out holes for the eyes, fired the shotgun he was carrying. Eyewitness statements, physical evidence, and defendant's own statement to police implicate him in the alleged offenses.

¹ Prior to reaching the issue of detention, the court ruled that the government had established probable cause for the charges against defendant.

Discussion

Given the nature of the charges, the rebuttable presumption of detention in 18 U.S.C. § 3142(e)(3) applies. The court finds that defendant, having presented no evidence, failed to rebut the presumption of detention. In accordance with this presumption, the court finds that there is no condition or combination of conditions that will reasonably assure the appearance of defendant as required and the safety of the community before trial.

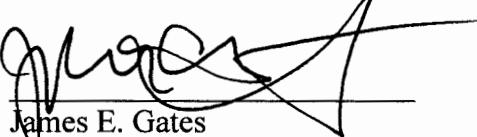
Alternatively, the court finds for the reasons stated herein and in open court that the proffer of the government and the information in the pretrial services report shows by clear and convincing evidence that there is no condition or combination of conditions that would reasonably assure the safety of any other person or the community, and (although not announced at the hearing) by a preponderance of the evidence that there is no condition or combination of conditions that would reasonably assure the appearance of defendant as required. This alternative finding is based on, among other facts, the gun-related nature of the charges against defendant, his commission of the alleged offense while on probation, and a prior revocation of his probation for absconding and other violations.

Conclusion

IT IS THEREFORE ORDERED that defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver

defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

This, the 6th day of February 2015.



James E. Gates
United States Magistrate Judge